

Introduced by Senator Liu

February 11, 2014

An act to amend ~~Section 391~~ Sections 319, 361, 361.2, 366.21, 366.22, 366.25, and 366.3 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 977, as amended, Liu. Juveniles: dependency court.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge certain children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law establishes the grounds for removal of a dependent child from the custody of his or her parents or guardian, and establishes procedures to determine temporary placement of a dependent child. Existing law prescribes various hearings, including specified review hearings, and other procedures for these purposes.

When a court orders the removal of a child from the physical custody of his or her parent, existing law generally requires the court to order the return of the child to the physical custody of his or her parent, unless the court finds that the return of the child would create a substantial risk of detriment, or substantial danger, to the safety, protection, or physical or emotional well-being of the child.

This bill would specify that the fact that a parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent is not, for that reason alone, prima

facie evidence of detriment or substantial danger and would additionally require the court to consider at those hearings whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility.

~~Existing law establishes the jurisdiction of the juvenile court, which is permitted to adjudge certain children to be dependents of the court under certain circumstances, and prescribes various hearings and other procedures for these purposes. Existing law prohibits the court from terminating dependency jurisdiction over a nonminor until a hearing is conducted and requires the county welfare to ensure that the dependent nonminor is present in court, unless the nonminor does not wish to appear in court and elects a telephonic appearance, as specified.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 319 of the Welfare and Institutions Code
2 is amended to read:

3 319. (a) At the initial petition hearing, the court shall examine
4 the child's parents, guardians, or other persons having relevant
5 knowledge and hear the relevant evidence as the child, the child's
6 parents or guardians, the petitioner, or their counsel desires to
7 present. The court may examine the child, as provided in Section
8 350.

9 (b) The social worker shall report to the court on the reasons
10 why the child has been removed from the parent's physical custody,
11 the need, if any, for continued detention, the available services
12 and the referral methods to those services that could facilitate the
13 return of the child to the custody of the child's parents or guardians,
14 and whether there are any relatives who are able and willing to
15 take temporary physical custody of the child. The court shall order
16 the release of the child from custody unless a prima facie showing
17 has been made that the child comes within Section 300, the court
18 finds that continuance in the parent's or guardian's home is
19 contrary to the child's welfare, and any of the following
20 circumstances exist:

1 (1) There is a substantial danger to the physical health of the
2 child or the child is suffering severe emotional damage, and there
3 are no reasonable means by which the child's physical or emotional
4 health may be protected without removing the child from the
5 parent's or guardian's physical custody.

6 (2) There is substantial evidence that a parent, guardian, or
7 custodian of the child is likely to flee the jurisdiction of the court.

8 (3) The child has left a placement in which he or she was placed
9 by the juvenile court.

10 (4) The child indicates an unwillingness to return home, if the
11 child has been physically or sexually abused by a person residing
12 in the home.

13 (c) If the matter is continued pursuant to Section 322 or for any
14 other reason, the court shall find that the continuance of the child
15 in the parent's or guardian's home is contrary to the child's welfare
16 at the initial petition hearing or order the release of the child from
17 custody.

18 (d) (1) The court shall also make a determination on the record,
19 referencing the social worker's report or other evidence relied
20 upon, as to whether reasonable efforts were made to prevent or
21 eliminate the need for removal of the child from his or her home,
22 pursuant to subdivision (b) of Section 306, and whether there are
23 available services that would prevent the need for further detention.
24 Services to be considered for purposes of making this determination
25 are case management, counseling, emergency shelter care,
26 emergency in-home caretakers, out-of-home respite care, teaching
27 and demonstrating homemakers, parenting training, transportation,
28 and any other child welfare services authorized by the State
29 Department of Social Services pursuant to Chapter 5 (commencing
30 with Section 16500) of Part 4 of Division 9. The court shall also
31 review whether the social worker has considered whether a referral
32 to public assistance services pursuant to Chapter 2 (commencing
33 with Section 11200) and Chapter 7 (commencing with Section
34 14000) of Part 3, Chapter 1 (commencing with Section 17000) of
35 Part 5, and Chapter 10 (commencing with Section 18900) of Part
36 6 of Division 9 would have eliminated the need to take temporary
37 custody of the child or would prevent the need for further detention.

38 (2) If the child can be returned to the custody of his or her parent
39 or guardian through the provision of those services, the court shall
40 place the child with his or her parent or guardian and order that

1 the services shall be provided. If the child cannot be returned to
2 the physical custody of his or her parent or guardian, the court
3 shall determine if there is a relative who is able and willing to care
4 for the child, and has been assessed pursuant to paragraph (1) of
5 subdivision (d) of Section 309.

6 *(3) In order to preserve the bond between the child and the*
7 *parent and to facilitate family reunification, the court shall*
8 *consider whether the child can be returned to the custody of his*
9 *or her parent who is enrolled in a certified substance abuse*
10 *treatment facility that allows a dependent child to reside with his*
11 *or her parent. The fact that the parent is enrolled in a certified*
12 *substance abuse treatment facility that allows a dependent child*
13 *to reside with his or her parent shall not be, for that reason alone,*
14 *prima facie evidence of substantial danger. The court shall specify*
15 *the factual basis for its conclusion that the return of the child to*
16 *the custody of his or her parent would pose a substantial danger*
17 *or would not pose a substantial danger to the physical health,*
18 *safety, protection, or physical or emotional well-being of the child.*

19 (e) If a court orders a child detained, the court shall state the
20 facts on which the decision is based, specify why the initial removal
21 was necessary, reference the social worker's report or other
22 evidence relied upon to make its determination whether
23 continuance in the home of the parent or legal guardian is contrary
24 to the child's welfare, order temporary placement and care of the
25 child to be vested with the county child welfare department pending
26 the hearing held pursuant to Section 355 or further order of the
27 court, and order services to be provided as soon as possible to
28 reunify the child and his or her family if appropriate.

29 (f) (1) If the child is not released from custody, the court may
30 order that the child shall be placed in the assessed home of a
31 relative, in an emergency shelter or other suitable licensed place,
32 in a place exempt from licensure designated by the juvenile court,
33 or in the assessed home of a nonrelative extended family member
34 as defined in Section 362.7 for a period not to exceed 15 judicial
35 days. A runaway and homeless youth shelter licensed by the State
36 Department of Social Services pursuant to Section 1502.35 of the
37 Health and Safety Code shall not be a placement option pursuant
38 to this section.

39 (2) As used in this section, "relative" means an adult who is
40 related to the child by blood, adoption, or affinity within the fifth

1 degree of kinship, including stepparents, stepsiblings, and all
2 relatives whose status is preceded by the words “great,”
3 “great-great,” or “grand,” or the spouse of any of these persons,
4 even if the marriage was terminated by death or dissolution.
5 However, only the following relatives shall be given preferential
6 consideration for placement of the child: an adult who is a
7 grandparent, aunt, uncle, or sibling of the child.

8 (3) The court shall consider the recommendations of the social
9 worker based on the assessment pursuant to paragraph (1) of
10 subdivision (d) of Section 309 of the relative’s home, including
11 the results of a criminal records check and prior child abuse
12 allegations, if any, prior to ordering that the child be placed with
13 a relative. The court shall order the parent to disclose to the social
14 worker the names, residences, and any known identifying
15 information of any maternal or paternal relatives of the child. The
16 social worker shall initiate the assessment pursuant to Section
17 361.3 of any relative to be considered for continuing placement.

18 (g) (1) At the initial hearing upon the petition filed in
19 accordance with subdivision (c) of Rule 5.520 of the California
20 Rules of Court or anytime thereafter up until the time that the
21 minor is adjudged a dependent child of the court or a finding is
22 made dismissing the petition, the court may temporarily limit the
23 right of the parent or guardian to make educational or
24 developmental services decisions for the child and temporarily
25 appoint a responsible adult to make educational or developmental
26 services decisions for the child if all of the following conditions
27 are found:

28 (A) The parent or guardian is unavailable, unable, or unwilling
29 to exercise educational or developmental services rights for the
30 child.

31 (B) The county placing agency has made diligent efforts to
32 locate and secure the participation of the parent or guardian in
33 educational or developmental services decisionmaking.

34 (C) The child’s educational and developmental services needs
35 cannot be met without the temporary appointment of a responsible
36 adult.

37 (2) If the court limits the parent’s educational rights under this
38 subdivision, the court shall determine whether there is a responsible
39 adult who is a relative, nonrelative extended family member, or
40 other adult known to the child and who is available and willing to

1 serve as the child's educational representative before appointing
2 an educational representative or surrogate who is not known to the
3 child.

4 (3) If the court cannot identify a responsible adult to make
5 educational decisions for the child and the appointment of a
6 surrogate parent, as defined in subdivision (a) of Section 56050
7 of the Education Code, is not warranted, the court may, with the
8 input of any interested person, make educational decisions for the
9 child. If the child is receiving services from a regional center, the
10 provision of any developmental services related to the court's
11 decision must be consistent with the child's individual program
12 plan and pursuant to the provisions of the Lanterman
13 Developmental Disabilities Services Act (Division 4.5
14 (commencing with Section 4500)). If the court cannot identify a
15 responsible adult to make developmental services decisions for
16 the child, the court may, with the input of any interested person,
17 make developmental services decisions for the child. If the court
18 makes educational or developmental services decisions for the
19 child, the court shall also issue appropriate orders to ensure that
20 every effort is made to identify a responsible adult to make future
21 educational or developmental services decisions for the child.

22 (4) Any temporary appointment of a responsible adult and
23 temporary limitation on the right of the parent or guardian to make
24 educational or developmental services decisions for the child shall
25 be specifically addressed in the court order. Any order made under
26 this section shall expire at the conclusion of the hearing held
27 pursuant to Section 361 or upon dismissal of the petition. Upon
28 the entering of disposition orders, any additional needed limitation
29 on the parent's or guardian's educational or developmental services
30 rights shall be addressed pursuant to Section 361.

31 (5) Nothing in this section in any way removes the obligation
32 to appoint surrogate parents for students with disabilities who are
33 without parental representation in special education procedures as
34 required by state and federal law, including Section 1415(b)(2) of
35 Title 20 of the United States Code, Section 56050 of the Education
36 Code, Section 7579.5 of the Government Code, and Rule 5.650
37 of the California Rules of Court.

38 (6) If the court appoints a developmental services decisionmaker
39 pursuant to this section, he or she shall have the authority to access
40 the child's information and records pursuant to subdivision (u) of

1 Section 4514 and subdivision (y) of Section 5328, and to act on
2 the child's behalf for the purposes of the individual program plan
3 process pursuant to Sections 4646, 4646.5, and 4648 and the fair
4 hearing process pursuant to Chapter 7 (commencing with Section
5 4700), and as set forth in the court order.

6 *SEC. 2. Section 361 of the Welfare and Institutions Code is*
7 *amended to read:*

8 361. (a) (1) In all cases in which a minor is adjudged a
9 dependent child of the court on the ground that the minor is a
10 person described by Section 300, the court may limit the control
11 to be exercised over the dependent child by any parent or guardian
12 and shall by its order clearly and specifically set forth all those
13 limitations. Any limitation on the right of the parent or guardian
14 to make educational or developmental services decisions for the
15 child shall be specifically addressed in the court order. The
16 limitations may not exceed those necessary to protect the child. If
17 the court specifically limits the right of the parent or guardian to
18 make educational or developmental services decisions for the child,
19 or, for the nonminor dependent, if the court finds the appointment
20 of a developmental services decisionmaker to be in the best
21 interests of the nonminor dependent, the court shall at the same
22 time appoint a responsible adult to make educational or
23 developmental services decisions for the child or nonminor
24 dependent until one of the following occurs:

25 (A) The minor reaches 18 years of age, unless the child or
26 nonminor dependent chooses not to make educational or
27 developmental services decisions for himself or herself, or is
28 deemed by the court to be incompetent.

29 (B) Another responsible adult is appointed to make educational
30 or developmental services decisions for the minor pursuant to this
31 section.

32 (C) The right of the parent or guardian to make educational or
33 developmental services decisions for the minor is fully restored.

34 (D) A successor guardian or conservator is appointed.

35 (E) The child is placed into a planned permanent living
36 arrangement pursuant to paragraph (5) of subdivision (g) of Section
37 366.21, Section 366.22, Section 366.26, or subdivision (i) of
38 Section 366.3, at which time, for educational decisionmaking, the
39 foster parent, relative caretaker, or nonrelative extended family
40 member as defined in Section 362.7, has the right to represent the

1 child in educational matters pursuant to Section 56055 of the
2 Education Code, and for decisions relating to developmental
3 services, unless the court specifies otherwise, the foster parent,
4 relative caregiver, or nonrelative extended family member of the
5 planned permanent living arrangement has the right to represent
6 the child or nonminor dependent in matters related to
7 developmental services.

8 (2) An individual who would have a conflict of interest in
9 representing the child or nonminor dependent ~~may~~ *shall* not be
10 appointed to make educational or developmental services decisions.
11 For purposes of this section, “an individual who would have a
12 conflict of interest,” means a person having any interests that might
13 restrict or bias his or her ability to make educational or
14 developmental services decisions, including, but not limited to,
15 those conflicts of interest prohibited by Section 1126 of the
16 Government Code, and the receipt of compensation or attorney’s
17 fees for the provision of services pursuant to this section. A foster
18 parent ~~may~~ *shall* not be deemed to have a conflict of interest solely
19 because he or she receives compensation for the provision of
20 services pursuant to this section.

21 (3) If the court limits the parent’s educational rights pursuant
22 to this subdivision, the court shall determine whether there is a
23 responsible adult who is a relative, nonrelative extended family
24 member, or other adult known to the child who is available and
25 willing to serve as the child’s educational representative before
26 appointing an educational representative or surrogate who is not
27 known to the child.

28 If the court cannot identify a responsible adult who is known to
29 the child and available to make educational decisions for the child,
30 subparagraphs (A) to (E), inclusive, of paragraph (1) do not apply,
31 and the child has either been referred to the local educational
32 agency for special education and related services, or has a valid
33 individualized education program, the court shall refer the child
34 to the local educational agency for appointment of a surrogate
35 parent pursuant to Section 7579.5 of the Government Code.

36 If the court cannot identify a responsible adult to make
37 educational decisions for the child, the appointment of a surrogate
38 parent as defined in subdivision (a) of Section 56050 of the
39 Education Code is not warranted, and there is no foster parent to
40 exercise the authority granted by Section 56055 of the Education

1 Code, the court may, with the input of any interested person, make
2 educational decisions for the child.

3 (4) If the court appoints a developmental services decisionmaker
4 pursuant to this section, he or she shall have the authority to access
5 the child's or nonminor dependent's information and records
6 pursuant to subdivision (u) of Section 4514 and subdivision (y) of
7 Section 5328, and to act on the child's or nonminor dependent's
8 behalf for the purposes of the individual program plan process
9 pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing
10 process pursuant to Chapter 7 (commencing with Section 4700)
11 of Division 4.5, and as set forth in the court order.

12 If the court cannot identify a responsible adult to make
13 developmental services decisions for the child or nonminor
14 dependent, the court may, with the input of any interested person,
15 make developmental services decisions for the child or nonminor
16 dependent. If the child is receiving services from a regional center,
17 the provision of any developmental services related to the court's
18 decision must be consistent with the child's or nonminor
19 dependent's individual program plan and pursuant to the provisions
20 of the Lanterman Developmental Disabilities Services Act
21 (Division 4.5 (commencing with Section 4500)).

22 (5) All educational and school placement decisions shall seek
23 to ensure that the child is in the least restrictive educational
24 programs and has access to the academic resources, services, and
25 extracurricular and enrichment activities that are available to all
26 pupils. In all instances, educational and school placement decisions
27 shall be based on the best interests of the child. If an educational
28 representative or surrogate is appointed for the child, the
29 representative or surrogate shall meet with the child, shall
30 investigate the child's educational needs and whether those needs
31 are being met, and shall, prior to each review hearing held under
32 this article, provide information and recommendations concerning
33 the child's educational needs to the child's social worker, make
34 written recommendations to the court, or attend the hearing and
35 participate in those portions of the hearing that concern the child's
36 education.

37 (6) Nothing in this section in any way removes the obligation
38 to appoint surrogate parents for students with disabilities who are
39 without parental representation in special education procedures as
40 required by state and federal law, including Section 1415(b)(2) of

1 Title 20 of the United States Code, Section 56050 of the Education
2 Code, Section 7579.5 of the Government Code, and Rule 5.650
3 of the California Rules of Court.

4 (b) Subdivision (a) does not limit the ability of a parent to
5 voluntarily relinquish his or her child to the State Department of
6 Social Services or to a county adoption agency at any time while
7 the child is a dependent child of the juvenile court, if the
8 department or agency is willing to accept the relinquishment.

9 (c) A dependent child ~~may~~ *shall* not be taken from the physical
10 custody of his or her parents or guardian or guardians with whom
11 the child resides at the time the petition was initiated, unless the
12 juvenile court finds clear and convincing evidence of any of the
13 following circumstances listed in paragraphs (1) to (5), inclusive,
14 and, in an Indian child custody proceeding, paragraph (6):

15 (1) There is or would be a substantial danger to the physical
16 health, safety, protection, or physical or emotional well-being of
17 the minor if the minor were returned home, and there are no
18 reasonable means by which the minor's physical health can be
19 protected without removing the minor from the minor's parent's
20 or guardian's physical custody. The fact that a minor has been
21 adjudicated a dependent child of the court pursuant to subdivision
22 (e) of Section 300 shall constitute prima facie evidence that the
23 minor cannot be safely left in the physical custody of the parent
24 or guardian with whom the minor resided at the time of injury.
25 The court shall consider, as a reasonable means to protect the
26 minor, ~~the option~~ *each of the following*:

27 (A) *The option* of removing an offending parent or guardian
28 from the home. ~~The court shall also consider, as a reasonable means~~
29 ~~to protect the minor, allowing~~

30 (B) *Allowing* a nonoffending parent or guardian to retain
31 physical custody as long as that parent or guardian presents a plan
32 acceptable to the court demonstrating that he or she will be able
33 to protect the child from future harm.

34 (C) *Whether the child can be returned to the custody of his or*
35 *her parent who is enrolled in a certified substance abuse treatment*
36 *facility that allows a dependent child to reside with his or her*
37 *parent.*

38 (2) The parent or guardian of the minor is unwilling to have
39 physical custody of the minor, and the parent or guardian has been
40 notified that if the minor remains out of their physical custody for

1 the period specified in Section 366.26, the minor may be declared
2 permanently free from their custody and control.

3 (3) The minor is suffering severe emotional damage, as indicated
4 by extreme anxiety, depression, withdrawal, or untoward aggressive
5 behavior toward himself or herself or others, and there are no
6 reasonable means by which the minor's emotional health may be
7 protected without removing the minor from the physical custody
8 of his or her parent or guardian.

9 (4) The minor or a sibling of the minor has been sexually abused,
10 or is deemed to be at substantial risk of being sexually abused, by
11 a parent, guardian, or member of his or her household, or other
12 person known to his or her parent, and there are no reasonable
13 means by which the minor can be protected from further sexual
14 abuse or a substantial risk of sexual abuse without removing the
15 minor from his or her parent or guardian, or the minor does not
16 wish to return to his or her parent or guardian.

17 (5) The minor has been left without any provision for his or her
18 support, or a parent who has been incarcerated or institutionalized
19 cannot arrange for the care of the minor, or a relative or other adult
20 custodian with whom the child has been left by the parent is
21 unwilling or unable to provide care or support for the child and
22 the whereabouts of the parent is unknown and reasonable efforts
23 to locate him or her have been unsuccessful.

24 (6) In an Indian child custody proceeding, continued custody
25 of the child by the parent or Indian custodian is likely to result in
26 serious emotional or physical damage to the child, and that finding
27 is supported by testimony of a "qualified expert witness" as
28 described in Section 224.6.

29 (A) Stipulation by the parent, Indian custodian, or the Indian
30 child's tribe, or failure to object, may waive the requirement of
31 producing evidence of the likelihood of serious damage only if the
32 court is satisfied that the party has been fully advised of the
33 requirements of the federal Indian Child Welfare Act (25 U.S.C.
34 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily
35 waived them.

36 (B) Failure to meet non-Indian family and child-rearing
37 community standards, or the existence of other behavior or
38 conditions that meet the removal standards of this section, will not
39 support an order for placement in the absence of the finding in this
40 paragraph.

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts, or, in the case of an Indian child custody proceeding, whether active efforts as required in Section 361.7 were made and that these efforts have proved unsuccessful. The court shall state the facts on which the decision to remove the minor is based.

(e) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parent or guardian and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

SEC. 3. Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2. (a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. *The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent shall not be, for that reason alone, prima facie evidence that placement with that parent would be detrimental.*

(b) If the court places the child with that parent it may do any of the following:

(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order

1 of the juvenile court shall be filed in any domestic relation
2 proceeding between the parents.

3 (2) Order that the parent assume custody subject to the
4 jurisdiction of the juvenile court and require that a home visit be
5 conducted within three months. In determining whether to take
6 the action described in this paragraph, the court shall consider any
7 concerns that have been raised by the child's current caregiver
8 regarding the parent. After the social worker conducts the home
9 visit and files his or her report with the court, the court may then
10 take the action described in paragraph (1), (3), or this paragraph.
11 However, nothing in this paragraph shall be interpreted to imply
12 that the court is required to take the action described in this
13 paragraph as a prerequisite to the court taking the action described
14 in either paragraph (1) or (3).

15 (3) Order that the parent assume custody subject to the
16 supervision of the juvenile court. In that case the court may order
17 that reunification services be provided to the parent or guardian
18 from whom the child is being removed, or the court may order that
19 services be provided solely to the parent who is assuming physical
20 custody in order to allow that parent to retain later custody without
21 court supervision, or that services be provided to both parents, in
22 which case the court shall determine, at review hearings held
23 pursuant to Section 366, which parent, if either, shall have custody
24 of the child.

25 (c) The court shall make a finding either in writing or on the
26 record of the basis for its determination under subdivisions (a) and
27 (b).

28 (d) Part 6 (commencing with Section 7950) of Division 12 of
29 the Family Code shall apply to the placement of a child pursuant
30 to paragraphs (1) and (2) of subdivision (e).

31 (e) When the court orders removal pursuant to Section 361, the
32 court shall order the care, custody, control, and conduct of the
33 child to be under the supervision of the social worker who may
34 place the child in any of the following:

35 (1) The home of a noncustodial parent as described in
36 subdivision (a), regardless of the parent's immigration status.

37 (2) The approved home of a relative, regardless of the relative's
38 immigration status.

39 (3) The approved home of a nonrelative extended family
40 member as defined in Section 362.7.

1 (4) A foster home in which the child has been placed before an
2 interruption in foster care, if that placement is in the best interest
3 of the child and space is available.

4 (5) A suitable licensed community care facility, except a
5 runaway and homeless youth shelter licensed by the State
6 Department of Social Services pursuant to Section 1502.35 of the
7 Health and Safety Code.

8 (6) With a foster family agency to be placed in a suitable
9 licensed foster family home or certified family home which has
10 been certified by the agency as meeting licensing standards.

11 (7) A home or facility in accordance with the federal Indian
12 Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

13 (8) A child under the age of six years may be placed in a
14 community care facility licensed as a group home for children, or
15 a temporary shelter care facility as defined in Section 1530.8 of
16 the Health and Safety Code, only under any of the following
17 circumstances:

18 (A) (i) When a case plan indicates that placement is for purposes
19 of providing short-term, specialized, and intensive treatment to
20 the child, the case plan specifies the need for, nature of, and
21 anticipated duration of this treatment, pursuant to paragraph (2)
22 of subdivision (c) of Section 16501.1, the facility meets the
23 applicable regulations adopted under Section 1530.8 of the Health
24 and Safety Code and standards developed pursuant to Section
25 11467.1, and the deputy director or director of the county child
26 welfare department or an assistant chief probation officer or chief
27 probation officer of the county probation department has approved
28 the case plan.

29 (ii) The short term, specialized, and intensive treatment period
30 shall not exceed 120 days, unless the county has made progress
31 toward or is actively working toward implementing the case plan
32 that identifies the services or supports necessary to transition the
33 child to a family setting, circumstances beyond the county's control
34 have prevented the county from obtaining those services or
35 supports within the timeline documented in the case plan, and the
36 need for additional time pursuant to the case plan is documented
37 by the caseworker and approved by a deputy director or director
38 of the county child welfare department or an assistant chief
39 probation officer or chief probation officer of the county probation
40 department.

1 (iii) To the extent that placements pursuant to this paragraph
2 are extended beyond an initial 120 days, the requirements of
3 clauses (i) and (ii) shall apply to each extension. In addition, the
4 deputy director or director of the county child welfare department
5 or an assistant chief probation officer or chief probation officer of
6 the county probation department shall approve the continued
7 placement no less frequently than every 60 days.

8 (B) When a case plan indicates that placement is for purposes
9 of providing family reunification services. In addition, the facility
10 offers family reunification services that meet the needs of the
11 individual child and his or her family, permits parents to have
12 reasonable access to their children 24 hours a day, encourages
13 extensive parental involvement in meeting the daily needs of their
14 children, and employs staff trained to provide family reunification
15 services. In addition, one of the following conditions exists:

16 (i) The child's parent is also a ward of the court and resides in
17 the facility.

18 (ii) The child's parent is participating in a treatment program
19 affiliated with the facility and the child's placement in the facility
20 facilitates the coordination and provision of reunification services.

21 (iii) Placement in the facility is the only alternative that permits
22 the parent to have daily 24-hour access to the child in accordance
23 with the case plan, to participate fully in meeting all of the daily
24 needs of the child, including feeding and personal hygiene, and to
25 have access to necessary reunification services.

26 (9) (A) A child who is 6 to 12 years of age, inclusive, may be
27 placed in a community care facility licensed as a group home for
28 children only when a case plan indicates that placement is for
29 purposes of providing short-term, specialized, and intensive
30 treatment for the child, the case plan specifies the need for, nature
31 of, and anticipated duration of this treatment, pursuant to paragraph
32 (2) of subdivision (c) of Section 16501.1, and is approved by the
33 deputy director or director of the county child welfare department
34 or an assistant chief probation officer or chief probation officer of
35 the county probation department.

36 (B) The short-term, specialized, and intensive treatment period
37 shall not exceed six months, unless the county has made progress
38 or is actively working toward implementing the case plan that
39 identifies the services or supports necessary to transition the child
40 to a family setting, circumstances beyond the county's control

1 have prevented the county from obtaining those services or
2 supports within the timeline documented in the case plan, and the
3 need for additional time pursuant to the case plan is documented
4 by the caseworker and approved by a deputy director or director
5 of the county child welfare department or an assistant chief
6 probation officer or chief probation officer of the county probation
7 department.

8 (C) To the extent that placements pursuant to this paragraph are
9 extended beyond an initial six months, the requirements of
10 subparagraph (A) and (B) shall apply to each extension. In addition,
11 the deputy director or director of the county child welfare
12 department or an assistant chief probation officer or chief probation
13 officer of the county probation department shall approve the
14 continued placement no less frequently than every 60 days.

15 (10) Nothing in this subdivision shall be construed to allow a
16 social worker to place any dependent child outside the United
17 States, except as specified in subdivision (f).

18 (f) (1) A child under the supervision of a social worker pursuant
19 to subdivision (e) shall not be placed outside the United States
20 prior to a judicial finding that the placement is in the best interest
21 of the child, except as required by federal law or treaty.

22 (2) The party or agency requesting placement of the child outside
23 the United States shall carry the burden of proof and ~~must~~ *shall*
24 show, by clear and convincing evidence, that placement outside
25 the United States is in the best interest of the child.

26 (3) In determining the best interest of the child, the court shall
27 consider, but not be limited to, the following factors:

28 (A) Placement with a relative.

29 (B) Placement of siblings in the same home.

30 (C) Amount and nature of any contact between the child and
31 the potential guardian or caretaker.

32 (D) Physical and medical needs of the dependent child.

33 (E) Psychological and emotional needs of the dependent child.

34 (F) Social, cultural, and educational needs of the dependent
35 child.

36 (G) Specific desires of any dependent child who is 12 years of
37 age or older.

38 (4) If the court finds that a placement outside the United States
39 is, by clear and convincing evidence, in the best interest of the
40 child, the court may issue an order authorizing the social worker

1 to make a placement outside the United States. A child subject to
2 this subdivision shall not leave the United States prior to the
3 issuance of the order described in this paragraph.

4 (5) For purposes of this subdivision, “outside the United States”
5 shall not include the lands of any federally recognized American
6 Indian tribe or Alaskan Natives.

7 (6) This subdivision shall not apply to the placement of a
8 dependent child with a parent pursuant to subdivision (a).

9 (g) (1) If the child is taken from the physical custody of the
10 child’s parent or guardian and unless the child is placed with
11 relatives, the child shall be placed in foster care in the county of
12 residence of the child’s parent or guardian in order to facilitate
13 reunification of the family.

14 (2) In the event that there are no appropriate placements
15 available in the parent’s or guardian’s county of residence, a
16 placement may be made in an appropriate place in another county,
17 preferably a county located adjacent to the parent’s or guardian’s
18 community of residence.

19 (3) Nothing in this section shall be interpreted as requiring
20 multiple disruptions of the child’s placement corresponding to
21 frequent changes of residence by the parent or guardian. In
22 determining whether the child should be moved, the social worker
23 shall take into consideration the potential harmful effects of
24 disrupting the placement of the child and the parent’s or guardian’s
25 reason for the move.

26 (4) When it has been determined that it is necessary for a child
27 to be placed in a county other than the child’s parent’s or guardian’s
28 county of residence, the specific reason the out-of-county
29 placement is necessary shall be documented in the child’s case
30 plan. If the reason the out-of-county placement is necessary is the
31 lack of resources in the sending county to meet the specific needs
32 of the child, those specific resource needs shall be documented in
33 the case plan.

34 (5) When it has been determined that a child is to be placed out
35 of county either in a group home or with a foster family agency
36 for subsequent placement in a certified foster family home, and
37 the sending county is to maintain responsibility for supervision
38 and visitation of the child, the sending county shall develop a plan
39 of supervision and visitation that specifies the supervision and
40 visitation activities to be performed and specifies that the sending

1 county is responsible for performing those activities. In addition
2 to the plan of supervision and visitation, the sending county shall
3 document information regarding any known or suspected dangerous
4 behavior of the child that indicates the child may pose a safety
5 concern in the receiving county. Upon implementation of the Child
6 Welfare Services Case Management System, the plan of
7 supervision and visitation, as well as information regarding any
8 known or suspected dangerous behavior of the child, shall be made
9 available to the receiving county upon placement of the child in
10 the receiving county. If placement occurs on a weekend or holiday,
11 the information shall be made available to the receiving county on
12 or before the end of the next business day.

13 (6) When it has been determined that a child is to be placed out
14 of county and the sending county plans that the receiving county
15 shall be responsible for the supervision and visitation of the child,
16 the sending county shall develop a formal agreement between the
17 sending and receiving counties. The formal agreement shall specify
18 the supervision and visitation to be provided the child, and shall
19 specify that the receiving county is responsible for providing the
20 supervision and visitation. The formal agreement shall be approved
21 and signed by the sending and receiving counties prior to placement
22 of the child in the receiving county. In addition, upon completion
23 of the case plan, the sending county shall provide a copy of the
24 completed case plan to the receiving county. The case plan shall
25 include information regarding any known or suspected dangerous
26 behavior of the child that indicates the child may pose a safety
27 concern to the receiving county.

28 (h) Whenever the social worker must change the placement of
29 the child and is unable to find a suitable placement within the
30 county and must place the child outside the county, the placement
31 shall not be made until he or she has served written notice on the
32 parent or guardian at least 14 days prior to the placement, unless
33 the child's health or well-being is endangered by delaying the
34 action or would be endangered if prior notice were given. The
35 notice shall state the reasons which require placement outside the
36 county. The parent or guardian may object to the placement not
37 later than seven days after receipt of the notice and, upon objection,
38 the court shall hold a hearing not later than five days after the
39 objection and prior to the placement. The court shall order

1 out-of-county placement if it finds that the child's particular needs
2 require placement outside the county.

3 (i) Where the court has ordered removal of the child from the
4 physical custody of his or her parents pursuant to Section 361, the
5 court shall consider whether the family ties and best interest of the
6 child will be served by granting visitation rights to the child's
7 grandparents. The court shall clearly specify those rights to the
8 social worker.

9 (j) Where the court has ordered removal of the child from the
10 physical custody of his or her parents pursuant to Section 361, the
11 court shall consider whether there are any siblings under the court's
12 jurisdiction, the nature of the relationship between the child and
13 his or her siblings, the appropriateness of developing or maintaining
14 the sibling relationships pursuant to Section 16002, and the impact
15 of the sibling relationships on the child's placement and planning
16 for legal permanence.

17 (k) (1) When an agency has placed a child with a relative
18 caregiver, a nonrelative extended family member, a licensed foster
19 family home, or a group home, the agency shall ensure placement
20 of the child in a home that, to the fullest extent possible, best meets
21 the day-to-day needs of the child. A home that best meets the
22 day-to-day needs of the child shall satisfy all of the following
23 criteria:

24 (A) The child's caregiver is able to meet the day-to-day health,
25 safety, and well-being needs of the child.

26 (B) The child's caregiver is permitted to maintain the least
27 restrictive and most family-like environment that serves the
28 day-to-day needs of the child.

29 (C) The child is permitted to engage in reasonable,
30 age-appropriate day-to-day activities that promote the most
31 family-like environment for the foster child.

32 (2) The foster child's caregiver shall use a reasonable and
33 prudent parent standard, as defined in paragraph (2) of subdivision
34 (a) of Section 362.04, to determine day-to-day activities that are
35 age-appropriate to meet the needs of the child. Nothing in this
36 section shall be construed to permit a child's caregiver to permit
37 the child to engage in day-to-day activities that carry an
38 unreasonable risk of harm, or subject the child to abuse or neglect.

39 *SEC. 4. Section 366.21 of the Welfare and Institutions Code*
40 *is amended to read:*

1 366.21. (a) Every hearing conducted by the juvenile court
2 reviewing the status of a dependent child shall be placed on the
3 appearance calendar. The court shall advise all persons present at
4 the hearing of the date of the future hearing and of their right to
5 be present and represented by counsel.

6 (b) Except as provided in Sections 294 and 295, notice of the
7 hearing shall be provided pursuant to Section 293.

8 (c) At least 10 calendar days prior to the hearing, the social
9 worker shall file a supplemental report with the court regarding
10 the services provided or offered to the parent or legal guardian to
11 enable him or her to assume custody and the efforts made to
12 achieve legal permanence for the child if efforts to reunify fail,
13 including, but not limited to, efforts to maintain relationships
14 between a child who is 10 years of age or older and has been in
15 out-of-home placement for six months or longer and individuals
16 who are important to the child, consistent with the child's best
17 interests; the progress made; and, where relevant, the prognosis
18 for return of the child to the physical custody of his or her parent
19 or legal guardian; and shall make his or her recommendation for
20 disposition. If the child is a member of a sibling group described
21 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
22 361.5, the report and recommendation may also take into account
23 those factors described in subdivision (e) relating to the child's
24 sibling group. If the recommendation is not to return the child to
25 a parent or legal guardian, the report shall specify why the return
26 of the child would be detrimental to the child. The social worker
27 shall provide the parent or legal guardian, counsel for the child,
28 and any court-appointed child advocate with a copy of the report,
29 including his or her recommendation for disposition, at least 10
30 calendar days prior to the hearing. In the case of a child removed
31 from the physical custody of his or her parent or legal guardian,
32 the social worker shall, at least 10 calendar days prior to the
33 hearing, provide a summary of his or her recommendation for
34 disposition to any foster parents, relative caregivers, and certified
35 foster parents who have been approved for adoption by the State
36 Department of Social Services when it is acting as an adoption
37 agency or by a county adoption agency, community care facility,
38 or foster family agency having the physical custody of the child.
39 The social worker shall include a copy of the Judicial Council
40 Caregiver Information Form (JV-290) with the summary of

1 recommendations to the child's foster parents, relative caregivers,
2 or foster parents approved for adoption, in the caregiver's primary
3 language when available, along with information on how to file
4 the form with the court.

5 (d) Prior to any hearing involving a child in the physical custody
6 of a community care facility or a foster family agency that may
7 result in the return of the child to the physical custody of his or
8 her parent or legal guardian, or in adoption or the creation of a
9 legal guardianship, or in the case of an Indian child, in consultation
10 with the child's tribe, tribal customary adoption, the facility or
11 agency shall file with the court a report, or a Judicial Council
12 Caregiver Information Form (JV-290), containing its
13 recommendation for disposition. Prior to the hearing involving a
14 child in the physical custody of a foster parent, a relative caregiver,
15 or a certified foster parent who has been approved for adoption by
16 the State Department of Social Services when it is acting as an
17 adoption agency or by a county adoption agency, the foster parent,
18 relative caregiver, or the certified foster parent who has been
19 approved for adoption by the State Department of Social Services
20 when it is acting as an adoption agency or by a county adoption
21 agency, may file with the court a report containing his or her
22 recommendation for disposition. The court shall consider the report
23 and recommendation filed pursuant to this subdivision prior to
24 determining any disposition.

25 (e) At the review hearing held six months after the initial
26 dispositional hearing, but no later than 12 months after the date
27 the child entered foster care as determined in Section 361.49,
28 whichever occurs earlier, after considering the admissible and
29 relevant evidence, the court shall order the return of the child to
30 the physical custody of his or her parent or legal guardian unless
31 the court finds, by a preponderance of the evidence, that the return
32 of the child to his or her parent or legal guardian would create a
33 substantial risk of detriment to the safety, protection, or physical
34 or emotional well-being of the child. The social worker shall have
35 the burden of establishing that detriment. At the hearing, the court
36 shall consider the criminal history, obtained pursuant to paragraph
37 (1) of subdivision (f) of Section 16504.5, of the parent or legal
38 guardian subsequent to the child's removal to the extent that the
39 criminal record is substantially related to the welfare of the child
40 or the parent's or guardian's ability to exercise custody and control

1 regarding his or her child, provided the parent or legal guardian
2 agreed to submit fingerprint images to obtain criminal history
3 information as part of the case plan. *The court shall also consider*
4 *whether the child can be returned to the custody of his or her*
5 *parent who is enrolled in a certified substance abuse treatment*
6 *facility that allows a dependent child to reside with his or her*
7 *parent. The fact that the parent is enrolled in a certified substance*
8 *abuse treatment facility shall not be, for that reason alone, prima*
9 *facie evidence of detriment.* The failure of the parent or legal
10 guardian to participate regularly and make substantive progress in
11 court-ordered treatment programs shall be prima facie evidence
12 that return would be detrimental. In making its determination, the
13 court shall review and consider the social worker's report and
14 recommendations and the report and recommendations of any child
15 advocate appointed pursuant to Section 356.5; and shall consider
16 the efforts or progress, or both, demonstrated by the parent or legal
17 guardian and the extent to which he or she availed himself or
18 herself to services provided, taking into account the particular
19 barriers to an incarcerated, institutionalized, detained, or deported
20 parent's or legal guardian's access to those court-mandated services
21 and ability to maintain contact with his or her child.

22 Regardless of whether the child is returned to a parent or legal
23 guardian, the court shall specify the factual basis for its conclusion
24 that the return would be detrimental or would not be detrimental.
25 The court also shall make appropriate findings pursuant to
26 subdivision (a) of Section 366; and, where relevant, shall order
27 any additional services reasonably believed to facilitate the return
28 of the child to the custody of his or her parent or legal guardian.
29 The court shall also inform the parent or legal guardian that if the
30 child cannot be returned home by the 12-month permanency
31 hearing, a proceeding pursuant to Section 366.26 may be instituted.
32 This section does not apply in a case where, pursuant to Section
33 361.5, the court has ordered that reunification services shall not
34 be provided.

35 If the child was under three years of age on the date of the initial
36 removal, or is a member of a sibling group described in
37 subparagraph (C) of paragraph (1) of subdivision (a) of Section
38 361.5, and the court finds by clear and convincing evidence that
39 the parent failed to participate regularly and make substantive
40 progress in a court-ordered treatment plan, the court may schedule

1 a hearing pursuant to Section 366.26 within 120 days. If, however,
2 the court finds there is a substantial probability that the child, who
3 was under three years of age on the date of initial removal or is a
4 member of a sibling group described in subparagraph (C) of
5 paragraph (1) of subdivision (a) of Section 361.5, may be returned
6 to his or her parent or legal guardian within six months or that
7 reasonable services have not been provided, the court shall continue
8 the case to the 12-month permanency hearing.

9 For the purpose of placing and maintaining a sibling group
10 together in a permanent home, the court, in making its
11 determination to schedule a hearing pursuant to Section 366.26
12 for some or all members of a sibling group, as described in
13 subparagraph (C) of paragraph (1) of subdivision (a) of Section
14 361.5, shall review and consider the social worker's report and
15 recommendations. Factors the report shall address, and the court
16 shall consider, may include, but need not be limited to, whether
17 the sibling group was removed from parental care as a group, the
18 closeness and strength of the sibling bond, the ages of the siblings,
19 the appropriateness of maintaining the sibling group together, the
20 detriment to the child if sibling ties are not maintained, the
21 likelihood of finding a permanent home for the sibling group,
22 whether the sibling group is currently placed together in a
23 preadoptive home or has a concurrent plan goal of legal
24 permanency in the same home, the wishes of each child whose
25 age and physical and emotional condition permits a meaningful
26 response, and the best interests of each child in the sibling group.
27 The court shall specify the factual basis for its finding that it is in
28 the best interests of each child to schedule a hearing pursuant to
29 Section 366.26 within 120 days for some or all of the members of
30 the sibling group.

31 If the child was removed initially under subdivision (g) of
32 Section 300 and the court finds by clear and convincing evidence
33 that the whereabouts of the parent are still unknown, or the parent
34 has failed to contact and visit the child, the court may schedule a
35 hearing pursuant to Section 366.26 within 120 days. The court
36 shall take into account any particular barriers to a parent's ability
37 to maintain contact with his or her child due to the parent's
38 incarceration, institutionalization, detention by the United States
39 Department of Homeland Security, or deportation. If the court
40 finds by clear and convincing evidence that the parent has been

1 convicted of a felony indicating parental unfitness, the court may
2 schedule a hearing pursuant to Section 366.26 within 120 days.

3 If the child had been placed under court supervision with a
4 previously noncustodial parent pursuant to Section 361.2, the court
5 shall determine whether supervision is still necessary. The court
6 may terminate supervision and transfer permanent custody to that
7 parent, as provided for by paragraph (1) of subdivision (b) of
8 Section 361.2.

9 In all other cases, the court shall direct that any reunification
10 services previously ordered shall continue to be offered to the
11 parent or legal guardian pursuant to the time periods set forth in
12 subdivision (a) of Section 361.5, provided that the court may
13 modify the terms and conditions of those services.

14 If the child is not returned to his or her parent or legal guardian,
15 the court shall determine whether reasonable services that were
16 designed to aid the parent or legal guardian in overcoming the
17 problems that led to the initial removal and the continued custody
18 of the child have been provided or offered to the parent or legal
19 guardian. The court shall order that those services be initiated,
20 continued, or terminated.

21 (f) The permanency hearing shall be held no later than 12
22 months after the date the child entered foster care, as that date is
23 determined pursuant to Section 361.49. At the permanency hearing,
24 the court shall determine the permanent plan for the child, which
25 shall include a determination of whether the child will be returned
26 to the child's home and, if so, when, within the time limits of
27 subdivision (a) of Section 361.5. After considering the relevant
28 and admissible evidence, the court shall order the return of the
29 child to the physical custody of his or her parent or legal guardian
30 unless the court finds, by a preponderance of the evidence, that
31 the return of the child to his or her parent or legal guardian would
32 create a substantial risk of detriment to the safety, protection, or
33 physical or emotional well-being of the child. The social worker
34 shall have the burden of establishing that detriment. At the
35 permanency hearing, the court shall consider the criminal history,
36 obtained pursuant to paragraph (1) of subdivision (f) of Section
37 16504.5, of the parent or legal guardian subsequent to the child's
38 removal to the extent that the criminal record is substantially related
39 to the welfare of the child or the parent's or legal guardian's ability
40 to exercise custody and control regarding his or her child, provided

1 that the parent or legal guardian agreed to submit fingerprint images
2 to obtain criminal history information as part of the case plan. The
3 court shall also determine whether reasonable services that were
4 designed to aid the parent or legal guardian to overcome the
5 problems that led to the initial removal and continued custody of
6 the child have been provided or offered to the parent or legal
7 guardian. For each youth 16 years of age and older, the court shall
8 also determine whether services have been made available to assist
9 him or her in making the transition from foster care to independent
10 living. *The court shall also consider whether the child can be*
11 *returned to the custody of his or her parent who is enrolled in a*
12 *certified substance abuse treatment facility that allows a dependent*
13 *child to reside with his or her parent. The fact that the parent is*
14 *enrolled in a certified substance abuse treatment facility shall not*
15 *be, for that reason alone, prima facie evidence of detriment.* The
16 failure of the parent or legal guardian to participate regularly and
17 make substantive progress in court-ordered treatment programs
18 shall be prima facie evidence that return would be detrimental. In
19 making its determination, the court shall review and consider the
20 social worker's report and recommendations and the report and
21 recommendations of any child advocate appointed pursuant to
22 Section 356.5, shall consider the efforts or progress, or both,
23 demonstrated by the parent or legal guardian and the extent to
24 which he or she availed himself or herself of services provided,
25 taking into account the particular barriers to an incarcerated,
26 institutionalized, detained, or deported parent's or legal guardian's
27 access to those court-mandated services and ability to maintain
28 contact with his or her child, and shall make appropriate findings
29 pursuant to subdivision (a) of Section 366.

30 Regardless of whether the child is returned to his or her parent
31 or legal guardian, the court shall specify the factual basis for its
32 decision. If the child is not returned to a parent or legal guardian,
33 the court shall specify the factual basis for its conclusion that the
34 return would be detrimental. The court also shall make a finding
35 pursuant to subdivision (a) of Section 366. If the child is not
36 returned to his or her parent or legal guardian, the court shall
37 consider, and state for the record, in-state and out-of-state
38 placement options. If the child is placed out of the state, the court
39 shall make a determination whether the out-of-state placement
40 continues to be appropriate and in the best interests of the child.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or legal guardian at the permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(A) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

For purposes of this subdivision, the court's decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

The court shall inform the parent or legal guardian that if the child cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court ~~may~~ *shall* not order that a hearing pursuant to Section

1 366.26 be held unless there is clear and convincing evidence that
2 reasonable services have been provided or offered to the parent or
3 legal guardian.

4 (2) Continue the case for up to six months for a permanency
5 review hearing, provided that the hearing shall occur within 18
6 months of the date the child was originally taken from the physical
7 custody of his or her parent or legal guardian, if the parent has
8 been arrested and issued an immigration hold, detained by the
9 United States Department of Homeland Security, or deported to
10 his or her country of origin, and the court determines either that
11 there is a substantial probability that the child will be returned to
12 the physical custody of his or her parent or legal guardian and
13 safely maintained in the home within the extended period of time
14 or that reasonable services have not been provided to the parent
15 or legal guardian.

16 (3) For purposes of paragraph (2), in order to find a substantial
17 probability that the child will be returned to the physical custody
18 of his or her parent or legal guardian and safely maintained in the
19 home within the extended period of time, the court ~~must~~ *shall* find
20 all of the following:

21 (A) The parent or legal guardian has consistently and regularly
22 contacted and visited with the child, taking into account any
23 particular barriers to a parent's ability to maintain contact with his
24 or her child due to the parent's arrest and receipt of an immigration
25 hold, detention by the United States Department of Homeland
26 Security, or deportation.

27 (B) The parent or legal guardian has made significant progress
28 in resolving the problems that led to the child's removal from the
29 home.

30 (C) The parent or legal guardian has demonstrated the capacity
31 or ability both to complete the objectives of his or her treatment
32 plan and to provide for the child's safety, protection, physical and
33 emotional well-being, and special needs.

34 (4) Order that a hearing be held within 120 days, pursuant to
35 Section 366.26, but only if the court does not continue the case to
36 the permanency planning review hearing and there is clear and
37 convincing evidence that reasonable services have been provided
38 or offered to the parents or legal guardians. On and after January
39 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
40 if the child is a nonminor dependent, unless the nonminor

1 dependent is an Indian child and tribal customary adoption is
2 recommended as the permanent plan.

3 (5) Order that the child remain in long-term foster care, but only
4 if the court finds by clear and convincing evidence, based upon
5 the evidence already presented to it, including a recommendation
6 by the State Department of Social Services when it is acting as an
7 adoption agency or by a county adoption agency, that there is a
8 compelling reason for determining that a hearing held pursuant to
9 Section 366.26 is not in the best interests of the child because the
10 child is not a proper subject for adoption and has no one willing
11 to accept legal guardianship. For purposes of this section, a
12 recommendation by the State Department of Social Services when
13 it is acting as an adoption agency or by a county adoption agency
14 that adoption is not in the best interests of the child shall constitute
15 a compelling reason for the court's determination. That
16 recommendation shall be based on the present circumstances of
17 the child and shall not preclude a different recommendation at a
18 later date if the child's circumstances change. On and after January
19 1, 2012, the nonminor dependent's legal status as an adult is in
20 and of itself a compelling reason not to hold a hearing pursuant to
21 Section 366.26. The court may order that a nonminor dependent
22 who otherwise is eligible pursuant to Section 11403 remain in a
23 planned, permanent living arrangement.

24 If the court orders that a child who is 10 years of age or older
25 remain in long-term foster care, the court shall determine whether
26 the agency has made reasonable efforts to maintain the child's
27 relationships with individuals other than the child's siblings who
28 are important to the child, consistent with the child's best interests,
29 and may make any appropriate order to ensure that those
30 relationships are maintained.

31 If the child is not returned to his or her parent or legal guardian,
32 the court shall consider, and state for the record, in-state and
33 out-of-state options for permanent placement. If the child is placed
34 out of the state, the court shall make a determination whether the
35 out-of-state placement continues to be appropriate and in the best
36 interests of the child.

37 (h) In any case in which the court orders that a hearing pursuant
38 to Section 366.26 shall be held, it shall also order the termination
39 of reunification services to the parent or legal guardian. The court
40 shall continue to permit the parent or legal guardian to visit the

1 child pending the hearing unless it finds that visitation would be
2 detrimental to the child. The court shall make any other appropriate
3 orders to enable the child to maintain relationships with individuals,
4 other than the child's siblings, who are important to the child,
5 consistent with the child's best interests. When the court orders a
6 termination of reunification services to the parent or legal guardian,
7 it shall also order that the child's caregiver receive the child's birth
8 certificate in accordance with Sections 16010.4 and 16010.5.
9 Additionally, when the court orders a termination of reunification
10 services to the parent or legal guardian, it shall order, when
11 appropriate, that a child who is 16 years of age or older receive
12 his or her birth certificate.

13 (i) (1) Whenever a court orders that a hearing pursuant to
14 Section 366.26, including, when, in consultation with the child's
15 tribe, tribal customary adoption is recommended, shall be held, it
16 shall direct the agency supervising the child and the county
17 adoption agency, or the State Department of Social Services when
18 it is acting as an adoption agency, to prepare an assessment that
19 shall include:

20 (A) Current search efforts for an absent parent or parents or
21 legal guardians.

22 (B) A review of the amount of and nature of any contact between
23 the child and his or her parents or legal guardians and other
24 members of his or her extended family since the time of placement.
25 Although the extended family of each child shall be reviewed on
26 a case-by-case basis, "extended family" for the purpose of this
27 subparagraph shall include, but not be limited to, the child's
28 siblings, grandparents, aunts, and uncles.

29 (C) An evaluation of the child's medical, developmental,
30 scholastic, mental, and emotional status.

31 (D) A preliminary assessment of the eligibility and commitment
32 of any identified prospective adoptive parent or legal guardian,
33 including the prospective tribal customary adoptive parent,
34 particularly the caretaker, to include a social history including
35 screening for criminal records and prior referrals for child abuse
36 or neglect, the capability to meet the child's needs, and the
37 understanding of the legal and financial rights and responsibilities
38 of adoption and guardianship. If a proposed guardian is a relative
39 of the minor, the assessment shall also consider, but need not be

1 limited to, all of the factors specified in subdivision (a) of Section
2 361.3 and in Section 361.4.

3 (E) The relationship of the child to any identified prospective
4 adoptive parent or legal guardian, the duration and character of
5 the relationship, the degree of attachment of the child to the
6 prospective relative guardian or adoptive parent, the relative's or
7 adoptive parent's strong commitment to caring permanently for
8 the child, the motivation for seeking adoption or guardianship, a
9 statement from the child concerning placement and the adoption
10 or guardianship, and whether the child, if over 12 years of age,
11 has been consulted about the proposed relative guardianship
12 arrangements, unless the child's age or physical, emotional, or
13 other condition precludes his or her meaningful response, and if
14 so, a description of the condition.

15 (F) A description of efforts to be made to identify a prospective
16 adoptive parent or legal guardian, including, but not limited to,
17 child-specific recruitment and listing on an adoption exchange
18 within the state or out of the state.

19 (G) An analysis of the likelihood that the child will be adopted
20 if parental rights are terminated.

21 (H) In the case of an Indian child, in addition to subparagraphs
22 (A) to (G), inclusive, an assessment of the likelihood that the child
23 will be adopted, when, in consultation with the child's tribe, a
24 tribal customary adoption, as defined in Section 366.24, is
25 recommended. If tribal customary adoption is recommended, the
26 assessment shall include an analysis of both of the following:

27 (i) Whether tribal customary adoption would or would not be
28 detrimental to the Indian child and the reasons for reaching that
29 conclusion.

30 (ii) Whether the Indian child cannot or should not be returned
31 to the home of the Indian parent or Indian custodian and the reasons
32 for reaching that conclusion.

33 (2) (A) A relative caregiver's preference for legal guardianship
34 over adoption, if it is due to circumstances that do not include an
35 unwillingness to accept legal or financial responsibility for the
36 child, shall not constitute the sole basis for recommending removal
37 of the child from the relative caregiver for purposes of adoptive
38 placement.

39 (B) Regardless of his or her immigration status, a relative
40 caregiver shall be given information regarding the permanency

1 options of guardianship and adoption, including the long-term
2 benefits and consequences of each option, prior to establishing
3 legal guardianship or pursuing adoption. If the proposed permanent
4 plan is guardianship with an approved relative caregiver for a
5 minor eligible for aid under the Kin-GAP Program, as provided
6 for in Article 4.7 (commencing with Section 11385) of Chapter 2
7 of Part 3 of Division 9, the relative caregiver shall be informed
8 about the terms and conditions of the negotiated agreement
9 pursuant to Section 11387 and shall agree to its execution prior to
10 the hearing held pursuant to Section 366.26. A copy of the executed
11 negotiated agreement shall be attached to the assessment.

12 (j) If, at any hearing held pursuant to Section 366.26, a
13 guardianship is established for the minor with an approved relative
14 caregiver, and juvenile court dependency is subsequently
15 dismissed, the minor shall be eligible for aid under the Kin-GAP
16 Program, as provided for in Article 4.5 (commencing with Section
17 11360) or Article 4.7 (commencing with Section 11385), as
18 applicable, of Chapter 2 of Part 3 of Division 9.

19 (k) As used in this section, “relative” means an adult who is
20 related to the minor by blood, adoption, or affinity within the fifth
21 degree of kinship, including stepparents, stepsiblings, and all
22 relatives whose status is preceded by the words “great,”
23 “great-great,” or “grand,” or the spouse of any of those persons
24 even if the marriage was terminated by death or dissolution. If the
25 proposed permanent plan is guardianship with an approved relative
26 caregiver for a minor eligible for aid under the Kin-GAP Program,
27 as provided for in Article 4.7 (commencing with Section 11385)
28 of Chapter 2 of Part 3 of Division 9, “relative” as used in this
29 section has the same meaning as “relative” as defined in
30 subdivision (c) of Section 11391.

31 (l) For purposes of this section, evidence of any of the following
32 circumstances may not, in and of itself, be deemed a failure to
33 provide or offer reasonable services:

34 (1) The child has been placed with a foster family that is eligible
35 to adopt a child, or has been placed in a preadoptive home.

36 (2) The case plan includes services to make and finalize a
37 permanent placement for the child if efforts to reunify fail.

38 (3) Services to make and finalize a permanent placement for
39 the child, if efforts to reunify fail, are provided concurrently with
40 services to reunify the family.

(m) The implementation and operation of the amendments to subdivisions (c) and (g) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 5. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) or (2) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. *The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, prima facie evidence of detriment.* The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent

1 to which he or she availed himself or herself of services provided,
2 taking into account the particular barriers of an incarcerated or
3 institutionalized parent's or legal guardian's access to those
4 court-mandated services and ability to maintain contact with his
5 or her child; and shall make appropriate findings pursuant to
6 subdivision (a) of Section 366.

7 Whether or not the child is returned to his or her parent or legal
8 guardian, the court shall specify the factual basis for its decision.
9 If the child is not returned to a parent or legal guardian, the court
10 shall specify the factual basis for its conclusion that return would
11 be detrimental. If the child is not returned to his or her parent or
12 legal guardian, the court shall consider, and state for the record,
13 in-state and out-of-state options for the child's permanent
14 placement. If the child is placed out of the state, the court shall
15 make a determination whether the out-of-state placement continues
16 to be appropriate and in the best interests of the child.

17 Unless the conditions in subdivision (b) are met and the child is
18 not returned to a parent or legal guardian at the permanency review
19 hearing, the court shall order that a hearing be held pursuant to
20 Section 366.26 in order to determine whether adoption, or, in the
21 case of an Indian child, in consultation with the child's tribe, tribal
22 customary adoption, guardianship, or long-term foster care is the
23 most appropriate plan for the child. On and after January 1, 2012,
24 a hearing pursuant to Section 366.26 shall not be ordered if the
25 child is a nonminor dependent, unless the nonminor dependent is
26 an Indian child, and tribal customary adoption is recommended as
27 the permanent plan. However, if the court finds by clear and
28 convincing evidence, based on the evidence already presented to
29 it, including a recommendation by the State Department of Social
30 Services when it is acting as an adoption agency or by a county
31 adoption agency, that there is a compelling reason, as described
32 in paragraph (5) of subdivision (g) of Section 366.21, for
33 determining that a hearing held under Section 366.26 is not in the
34 best interests of the child because the child is not a proper subject
35 for adoption and has no one willing to accept legal guardianship,
36 the court may, only under these circumstances, order that the child
37 remain in long-term foster care. On and after January 1, 2012, the
38 nonminor dependent's legal status as an adult is in and of itself a
39 compelling reason not to hold a hearing pursuant to Section 366.26.
40 The court may order that a nonminor dependent who otherwise is

1 eligible pursuant to Section 11403 remain in a planned, permanent
2 living arrangement. If the court orders that a child who is 10 years
3 of age or older remain in long-term foster care, the court shall
4 determine whether the agency has made reasonable efforts to
5 maintain the child's relationships with individuals other than the
6 child's siblings who are important to the child, consistent with the
7 child's best interests, and may make any appropriate order to ensure
8 that those relationships are maintained. The hearing shall be held
9 no later than 120 days from the date of the permanency review
10 hearing. The court shall also order termination of reunification
11 services to the parent or legal guardian. The court shall continue
12 to permit the parent or legal guardian to visit the child unless it
13 finds that visitation would be detrimental to the child. The court
14 shall determine whether reasonable services have been offered or
15 provided to the parent or legal guardian. For purposes of this
16 subdivision, evidence of any of the following circumstances shall
17 not, in and of themselves, be deemed a failure to provide or offer
18 reasonable services:

19 (1) The child has been placed with a foster family that is eligible
20 to adopt a child, or has been placed in a preadoptive home.

21 (2) The case plan includes services to make and finalize a
22 permanent placement for the child if efforts to reunify fail.

23 (3) Services to make and finalize a permanent placement for
24 the child, if efforts to reunify fail, are provided concurrently with
25 services to reunify the family.

26 (b) If the child is not returned to a parent or legal guardian at
27 the permanency review hearing and the court determines by clear
28 and convincing evidence that the best interests of the child would
29 be met by the provision of additional reunification services to a
30 parent or legal guardian who is making significant and consistent
31 progress in a court-ordered residential substance abuse treatment
32 program, or a parent recently discharged from incarceration,
33 institutionalization, or the custody of the United States Department
34 of Homeland Security and making significant and consistent
35 progress in establishing a safe home for the child's return, the court
36 may continue the case for up to six months for a subsequent
37 permanency review hearing, provided that the hearing shall occur
38 within 24 months of the date the child was originally taken from
39 the physical custody of his or her parent or legal guardian. The
40 court shall continue the case only if it finds that there is a

1 substantial probability that the child will be returned to the physical
2 custody of his or her parent or legal guardian and safely maintained
3 in the home within the extended period of time or that reasonable
4 services have not been provided to the parent or legal guardian.
5 For the purposes of this section, in order to find a substantial
6 probability that the child will be returned to the physical custody
7 of his or her parent or legal guardian and safely maintained in the
8 home within the extended period of time, the court shall be required
9 to find all of the following:

10 (1) That the parent or legal guardian has consistently and
11 regularly contacted and visited with the child.

12 (2) That the parent or legal guardian has made significant and
13 consistent progress in the prior 18 months in resolving problems
14 that led to the child's removal from the home.

15 (3) The parent or legal guardian has demonstrated the capacity
16 and ability both to complete the objectives of his or her substance
17 abuse treatment plan as evidenced by reports from a substance
18 abuse provider as applicable, or complete a treatment plan
19 postdischarge from incarceration, institutionalization, or detention,
20 or following deportation to his or her country of origin and his or
21 her return to the United States, and to provide for the child's safety,
22 protection, physical and emotional well-being, and special needs.

23 For purposes of this subdivision, the court's decision to continue
24 the case based on a finding or substantial probability that the child
25 will be returned to the physical custody of his or her parent or legal
26 guardian is a compelling reason for determining that a hearing
27 held pursuant to Section 366.26 is not in the best interests of the
28 child.

29 The court shall inform the parent or legal guardian that if the
30 child cannot be returned home by the subsequent permanency
31 review hearing, a proceeding pursuant to Section 366.26 may be
32 instituted. The court may not order that a hearing pursuant to
33 Section 366.26 be held unless there is clear and convincing
34 evidence that reasonable services have been provided or offered
35 to the parent or legal guardian.

36 (c) (1) Whenever a court orders that a hearing pursuant to
37 Section 366.26, including when a tribal customary adoption is
38 recommended, shall be held, it shall direct the agency supervising
39 the child and the county adoption agency, or the State Department

1 of Social Services when it is acting as an adoption agency, to
2 prepare an assessment that shall include:

3 (A) Current search efforts for an absent parent or parents.

4 (B) A review of the amount of and nature of any contact between
5 the child and his or her parents and other members of his or her
6 extended family since the time of placement. Although the
7 extended family of each child shall be reviewed on a case-by-case
8 basis, “extended family” for the purposes of this subparagraph
9 shall include, but not be limited to, the child’s siblings,
10 grandparents, aunts, and uncles.

11 (C) An evaluation of the child’s medical, developmental,
12 scholastic, mental, and emotional status.

13 (D) A preliminary assessment of the eligibility and commitment
14 of any identified prospective adoptive parent or legal guardian,
15 particularly the caretaker, to include a social history including
16 screening for criminal records and prior referrals for child abuse
17 or neglect, the capability to meet the child’s needs, and the
18 understanding of the legal and financial rights and responsibilities
19 of adoption and guardianship. If a proposed legal guardian is a
20 relative of the minor, the assessment shall also consider, but need
21 not be limited to, all of the factors specified in subdivision (a) of
22 Section 361.3 and Section 361.4.

23 (E) The relationship of the child to any identified prospective
24 adoptive parent or legal guardian, the duration and character of
25 the relationship, the degree of attachment of the child to the
26 prospective relative guardian or adoptive parent, the relative’s or
27 adoptive parent’s strong commitment to caring permanently for
28 the child, the motivation for seeking adoption or legal guardianship,
29 a statement from the child concerning placement and the adoption
30 or legal guardianship, and whether the child, if over 12 years of
31 age, has been consulted about the proposed relative guardianship
32 arrangements, unless the child’s age or physical, emotional, or
33 other condition precludes his or her meaningful response, and if
34 so, a description of the condition.

35 (F) An analysis of the likelihood that the child will be adopted
36 if parental rights are terminated.

37 (G) In the case of an Indian child, in addition to subparagraphs
38 (A) to (F), inclusive, an assessment of the likelihood that the child
39 will be adopted, when, in consultation with the child’s tribe, a
40 tribal customary adoption, as defined in Section 366.24, is

1 recommended. If tribal customary adoption is recommended, the
2 assessment shall include an analysis of both of the following:

3 (i) Whether tribal customary adoption would or would not be
4 detrimental to the Indian child and the reasons for reaching that
5 conclusion.

6 (ii) Whether the Indian child cannot or should not be returned
7 to the home of the Indian parent or Indian custodian and the reasons
8 for reaching that conclusion.

9 (2) (A) A relative caregiver's preference for legal guardianship
10 over adoption, if it is due to circumstances that do not include an
11 unwillingness to accept legal or financial responsibility for the
12 child, shall not constitute the sole basis for recommending removal
13 of the child from the relative caregiver for purposes of adoptive
14 placement.

15 (B) Regardless of his or her immigration status, a relative
16 caregiver shall be given information regarding the permanency
17 options of guardianship and adoption, including the long-term
18 benefits and consequences of each option, prior to establishing
19 legal guardianship or pursuing adoption. If the proposed permanent
20 plan is guardianship with an approved relative caregiver for a
21 minor eligible for aid under the Kin-GAP Program, as provided
22 for in Article 4.7 (commencing with Section 11385) of Chapter 2
23 of Part 3 of Division 9, the relative caregiver shall be informed
24 about the terms and conditions of the negotiated agreement
25 pursuant to Section 11387 and shall agree to its execution prior to
26 the hearing held pursuant to Section 366.26. A copy of the executed
27 negotiated agreement shall be attached to the assessment.

28 (d) This section shall become operative January 1, 1999. If at
29 any hearing held pursuant to Section 366.26, a legal guardianship
30 is established for the minor with an approved relative caregiver,
31 and juvenile court dependency is subsequently dismissed, the minor
32 shall be eligible for aid under the Kin-GAP Program, as provided
33 for in Article 4.5 (commencing with Section 11360) or Article 4.7
34 (commencing with Section 11385), as applicable, of Chapter 2 of
35 Part 3 of Division 9.

36 (e) As used in this section, "relative" means an adult who is
37 related to the child by blood, adoption, or affinity within the fifth
38 degree of kinship, including stepparents, stepsiblings, and all
39 relatives whose status is preceded by the words "great,"
40 "great-great," or "grand," or the spouse of any of those persons

1 even if the marriage was terminated by death or dissolution. If the
2 proposed permanent plan is guardianship with an approved relative
3 caregiver for a minor eligible for aid under the Kin-GAP Program,
4 as provided for in Article 4.7 (commencing with Section 11385)
5 of Chapter 2 of Part 3 of Division 9, “relative” as used in this
6 section has the same meaning as “relative” as defined in
7 subdivision (c) of Section 11391.

8 (f) The implementation and operation of the amendments to
9 subdivision (a) enacted at the 2005–06 Regular Session shall be
10 subject to appropriation through the budget process and by phase,
11 as provided in Section 366.35.

12 *SEC. 6. Section 366.25 of the Welfare and Institutions Code*
13 *is amended to read:*

14 366.25. (a) (1) When a case has been continued pursuant to
15 subdivision (b) of Section 366.22, the subsequent permanency
16 review hearing shall occur within 24 months after the date the
17 child was originally removed from the physical custody of his or
18 her parent or legal guardian. After considering the relevant and
19 admissible evidence, the court shall order the return of the child
20 to the physical custody of his or her parent or legal guardian unless
21 the court finds, by a preponderance of the evidence, that the return
22 of the child to his or her parent or legal guardian would create a
23 substantial risk of detriment to the safety, protection, or physical
24 or emotional well-being of the child. The social worker shall have
25 the burden of establishing that detriment. At the subsequent
26 permanency review hearing, the court shall consider the criminal
27 history, obtained pursuant to paragraph (1) of subdivision (f) of
28 Section 16504.5, of the parent or legal guardian subsequent to the
29 child’s removal to the extent that the criminal record is substantially
30 related to the welfare of the child or parent’s or legal guardian’s
31 ability to exercise custody and control regarding his or her child
32 provided that the parent or legal guardian agreed to submit
33 fingerprint images to obtain criminal history information as part
34 of the case plan. *The court shall also consider whether the child*
35 *can be returned to the custody of a parent who is enrolled in a*
36 *certified substance abuse treatment facility that allows a dependent*
37 *child to reside with his or her parent. The fact that the parent is*
38 *enrolled in a certified substance abuse treatment facility shall not*
39 *be, for that reason alone, prima facie evidence of detriment.* The
40 failure of the parent or legal guardian to participate regularly and

1 make substantive progress in court-ordered treatment programs
2 shall be prima facie evidence that return would be detrimental. In
3 making its determination, the court shall review and consider the
4 social worker's report and recommendations and the report and
5 recommendations of any child advocate appointed pursuant to
6 Section 356.5; shall consider the efforts or progress, or both,
7 demonstrated by the parent or legal guardian and the extent to
8 which he or she availed himself or herself of services provided;
9 and shall make appropriate findings pursuant to subdivision (a) of
10 Section 366.

11 (2) Whether or not the child is returned to his or her parent or
12 legal guardian, the court shall specify the factual basis for its
13 decision. If the child is not returned to a parent or legal guardian,
14 the court shall specify the factual basis for its conclusion that return
15 would be detrimental. If the child is not returned to his or her parent
16 or legal guardian, the court shall consider and state for the record,
17 in-state and out-of-state options for the child's permanent
18 placement. If the child is placed out of the state, the court shall
19 make a determination whether the out-of-state placement continues
20 to be appropriate and in the best interests of the child.

21 (3) If the child is not returned to a parent or legal guardian at
22 the subsequent permanency review hearing, the court shall order
23 that a hearing be held pursuant to Section 366.26 in order to
24 determine whether adoption, or, in the case of an Indian child,
25 tribal customary adoption, guardianship, or long-term foster care
26 is the most appropriate plan for the child. On and after January 1,
27 2012, a hearing pursuant to Section 366.26 shall not be ordered if
28 the child is a nonminor dependent, unless the nonminor dependent
29 is an Indian child and tribal customary adoption is recommended
30 as the permanent plan. However, if the court finds by clear and
31 convincing evidence, based on the evidence already presented to
32 it, including a recommendation by the State Department of Social
33 Services when it is acting as an adoption agency or by a county
34 adoption agency, that there is a compelling reason, as described
35 in paragraph (5) of subdivision (g) of Section 366.21, for
36 determining that a hearing held under Section 366.26 is not in the
37 best interest of the child because the child is not a proper subject
38 for adoption or, in the case of an Indian child, tribal customary
39 adoption, and has no one willing to accept legal guardianship, then
40 the court may, only under these circumstances, order that the child

1 remain in long-term foster care. On and after January 1, 2012, the
2 nonminor dependent's legal status as an adult is in and of itself a
3 compelling reason not to hold a hearing pursuant to Section 366.26.
4 The court may order that a nonminor dependent who otherwise is
5 eligible pursuant to Section 11403 remain in a planned, permanent
6 living arrangement. If the court orders that a child who is 10 years
7 of age or older remain in long-term foster care, the court shall
8 determine whether the agency has made reasonable efforts to
9 maintain the child's relationships with individuals other than the
10 child's siblings who are important to the child, consistent with the
11 child's best interests, and may make any appropriate order to ensure
12 that those relationships are maintained. The hearing shall be held
13 no later than 120 days from the date of the subsequent permanency
14 review hearing. The court shall also order termination of
15 reunification services to the parent or legal guardian. The court
16 shall continue to permit the parent or legal guardian to visit the
17 child unless it finds that visitation would be detrimental to the
18 child. The court shall determine whether reasonable services have
19 been offered or provided to the parent or legal guardian. For
20 purposes of this paragraph, evidence of any of the following
21 circumstances shall not, in and of themselves, be deemed a failure
22 to provide or offer reasonable services:

23 (A) The child has been placed with a foster family that is eligible
24 to adopt a child, or has been placed in a preadoptive home.

25 (B) The case plan includes services to make and finalize a
26 permanent placement for the child if efforts to reunify fail.

27 (C) Services to make and finalize a permanent placement for
28 the child, if efforts to reunify fail, are provided concurrently with
29 services to reunify the family.

30 (b) (1) Whenever a court orders that a hearing pursuant to
31 Section 366.26 shall be held, it shall direct the agency supervising
32 the child and the county adoption agency, or the State Department
33 of Social Services when it is acting as an adoption agency, to
34 prepare an assessment that shall include:

35 (A) Current search efforts for an absent parent or parents.

36 (B) A review of the amount of, and nature of, any contact
37 between the child and his or her parents and other members of his
38 or her extended family since the time of placement. Although the
39 extended family of each child shall be reviewed on a case-by-case
40 basis, "extended family" for the purposes of this paragraph shall

1 include, but not be limited to, the child's siblings, grandparents,
2 aunts, and uncles.

3 (C) An evaluation of the child's medical, developmental,
4 scholastic, mental, and emotional status.

5 (D) A preliminary assessment of the eligibility and commitment
6 of any identified prospective adoptive parent or legal guardian,
7 including a prospective tribal customary adoptive parent,
8 particularly the caretaker, to include a social history including
9 screening for criminal records and prior referrals for child abuse
10 or neglect, the capability to meet the child's needs, and the
11 understanding of the legal and financial rights and responsibilities
12 of adoption and guardianship. If a proposed legal guardian is a
13 relative of the minor, the assessment shall also consider, but need
14 not be limited to, all of the factors specified in subdivision (a) of
15 Section 361.3 and in Section 361.4.

16 (E) The relationship of the child to any identified prospective
17 adoptive parent or legal guardian, including a prospective tribal
18 customary adoptive parent, the duration and character of the
19 relationship, the degree of attachment of the child to the prospective
20 relative guardian or adoptive parent, the relative's or adoptive
21 parent's strong commitment to caring permanently for the child,
22 the motivation for seeking adoption or legal guardianship, a
23 statement from the child concerning placement and the adoption
24 or legal guardianship, and whether the child, if over 12 years of
25 age, has been consulted about the proposed relative guardianship
26 arrangements, unless the child's age or physical, emotional, or
27 other condition precludes his or her meaningful response, and if
28 so, a description of the condition.

29 (F) An analysis of the likelihood that the child will be adopted
30 if parental rights are terminated.

31 (G) In the case of an Indian child, in addition to subparagraphs
32 (A) to (F), inclusive, an assessment of the likelihood that the child
33 will be adopted, when, in consultation with the child's tribe, a
34 tribal customary adoption, as defined in Section 366.24, is
35 recommended. If tribal customary adoption is recommended, the
36 assessment shall include an analysis of both of the following:

37 (i) Whether tribal customary adoption would or would not be
38 detrimental to the Indian child and the reasons for reaching that
39 conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section

1 has the same meaning as “relative” as defined in subdivision (c)
2 of Section 11391.

3 (e) The implementation and operation of subdivision (a) enacted
4 at the 2005–06 Regular Session shall be subject to appropriation
5 through the budget process and by phase, as provided in Section
6 366.35.

7 *SEC. 7. Section 366.3 of the Welfare and Institutions Code is*
8 *amended to read:*

9 366.3. (a) If a juvenile court orders a permanent plan of
10 adoption, tribal customary adoption, adoption of a nonminor
11 dependent pursuant to subdivision (f) of Section 366.31, or legal
12 guardianship pursuant to Section 360 or 366.26, the court shall
13 retain jurisdiction over the child or nonminor dependent until the
14 child or nonminor dependent is adopted or the legal guardianship
15 is established, except as provided for in Section 366.29 or, on and
16 after January 1, 2012, Section 366.32. The status of the child or
17 nonminor dependent shall be reviewed every six months to ensure
18 that the adoption or legal guardianship is completed as
19 expeditiously as possible. When the adoption of the child or
20 nonminor dependent has been granted, or in the case of a tribal
21 customary adoption, when the tribal customary adoption order has
22 been afforded full faith and credit and the petition for adoption
23 has been granted, the court shall terminate its jurisdiction over the
24 child or nonminor dependent. Following establishment of a legal
25 guardianship, the court may continue jurisdiction over the child
26 as a dependent child of the juvenile court or may terminate its
27 dependency jurisdiction and retain jurisdiction over the child as a
28 ward of the legal guardianship, as authorized by Section 366.4. If,
29 however, a relative of the child is appointed the legal guardian of
30 the child and the child has been placed with the relative for at least
31 six months, the court shall, except if the relative guardian objects,
32 or upon a finding of exceptional circumstances, terminate its
33 dependency jurisdiction and retain jurisdiction over the child as a
34 ward of the guardianship, as authorized by Section 366.4.
35 Following a termination of parental rights, the parent or parents
36 shall not be a party to, or receive notice of, any subsequent
37 proceedings regarding the child.

38 (b) If the court has dismissed dependency jurisdiction following
39 the establishment of a legal guardianship, or no dependency
40 jurisdiction attached because of the granting of a legal guardianship

1 pursuant to Section 360, and the legal guardianship is subsequently
2 revoked or otherwise terminated, the county department of social
3 services or welfare department shall notify the juvenile court of
4 this fact. The court may vacate its previous order dismissing
5 dependency jurisdiction over the child.

6 Notwithstanding Section 1601 of the Probate Code, the
7 proceedings to terminate a legal guardianship that has been granted
8 pursuant to Section 360 or 366.26 shall be held either in the
9 juvenile court that retains jurisdiction over the guardianship as
10 authorized by Section 366.4 or the juvenile court in the county
11 where the guardian and child currently reside, based on the best
12 interests of the child, unless the termination is due to the
13 emancipation or adoption of the child. The juvenile court having
14 jurisdiction over the guardianship shall receive notice from the
15 court in which the petition is filed within five calendar days of the
16 filing. Prior to the hearing on a petition to terminate legal
17 guardianship pursuant to this subdivision, the court shall order the
18 county department of social services or welfare department having
19 jurisdiction or jointly with the county department where the
20 guardian and child currently reside to prepare a report, for the
21 court's consideration, that shall include an evaluation of whether
22 the child could safely remain in, or be returned to, the legal
23 guardian's home, without terminating the legal guardianship, if
24 services were provided to the child or legal guardian. If applicable,
25 the report shall also identify recommended family maintenance or
26 reunification services to maintain the legal guardianship and set
27 forth a plan for providing those services. If the petition to terminate
28 legal guardianship is granted, either juvenile court may resume
29 dependency jurisdiction over the child, and may order the county
30 department of social services or welfare department to develop a
31 new permanent plan, which shall be presented to the court within
32 60 days of the termination. If no dependency jurisdiction has
33 attached, the social worker shall make any investigation he or she
34 deems necessary to determine whether the child may be within the
35 jurisdiction of the juvenile court, as provided in Section 328.

36 Unless the parental rights of the child's parent or parents have
37 been terminated, they shall be notified that the legal guardianship
38 has been revoked or terminated and shall be entitled to participate
39 in the new permanency planning hearing. The court shall try to
40 place the child in another permanent placement. At the hearing,

the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. *The court shall consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent.* The court may, if it is in the best interests of the child, order that reunification services again be provided to the parent or parents.

(c) If, following the establishment of a legal guardianship, the county welfare department becomes aware of changed circumstances that indicate adoption or, for an Indian child, tribal customary adoption, may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued legal guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. If the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services if it is acting as an adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

(d) If the child or, on and after January 1, 2012, nonminor dependent is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child or, on and after January 1, 2012, nonminor dependent for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

- (1) Upon the request of the child's parents or legal guardians.
- (2) Upon the request of the child or, on and after January 1, 2012, nonminor dependent.

1 (3) It has been 12 months since a hearing held pursuant to
2 Section 366.26 or an order that the child remain in long-term foster
3 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
4 subdivision (h).

5 (4) It has been 12 months since a review was conducted by the
6 court.

7 The court shall determine whether or not reasonable efforts to
8 make and finalize a permanent placement for the child have been
9 made.

10 (e) Except as provided in subdivision (g), at the review held
11 every six months pursuant to subdivision (d), the reviewing body
12 shall inquire about the progress being made to provide a permanent
13 home for the child, shall consider the safety of the child, and shall
14 determine all of the following:

15 (1) The continuing necessity for, and appropriateness of, the
16 placement.

17 (2) Identification of individuals other than the child's siblings
18 who are important to a child who is 10 years of age or older and
19 has been in out-of-home placement for six months or longer, and
20 actions necessary to maintain the child's relationship with those
21 individuals, provided that those relationships are in the best interest
22 of the child. The social worker shall ask every child who is 10
23 years of age or older and who has been in out-of-home placement
24 for six months or longer to identify individuals other than the
25 child's siblings who are important to the child, and may ask any
26 other child to provide that information, as appropriate. The social
27 worker shall make efforts to identify other individuals who are
28 important to the child, consistent with the child's best interests.

29 (3) The continuing appropriateness and extent of compliance
30 with the permanent plan for the child, including efforts to maintain
31 relationships between a child who is 10 years of age or older and
32 who has been in out-of-home placement for six months or longer
33 and individuals who are important to the child and efforts to
34 identify a prospective adoptive parent or legal guardian, including,
35 but not limited to, child-specific recruitment efforts and listing on
36 an adoption exchange.

37 (4) The extent of the agency's compliance with the child welfare
38 services case plan in making reasonable efforts either to return the
39 child to the safe home of the parent or to complete whatever steps
40 are necessary to finalize the permanent placement of the child. If

1 the reviewing body determines that a second period of reunification
2 services is in the child's best interests, and that there is a significant
3 likelihood of the child's return to a safe home due to changed
4 circumstances of the parent, pursuant to subdivision (f), the specific
5 reunification services required to effect the child's return to a safe
6 home shall be described.

7 (5) Whether there should be any limitation on the right of the
8 parent or guardian to make educational decisions or developmental
9 services decisions for the child. That limitation shall be specifically
10 addressed in the court order and may not exceed what is necessary
11 to protect the child. If the court specifically limits the right of the
12 parent or guardian to make educational decisions or developmental
13 services decisions for the child, the court shall at the same time
14 appoint a responsible adult to make educational decisions or
15 developmental services decisions for the child pursuant to Section
16 361.

17 (6) The adequacy of services provided to the child. The court
18 shall consider the progress in providing the information and
19 documents to the child, as described in Section 391. The court
20 shall also consider the need for, and progress in providing, the
21 assistance and services described in Section 391.

22 (7) The extent of progress the parents or legal guardians have
23 made toward alleviating or mitigating the causes necessitating
24 placement in foster care.

25 (8) The likely date by which the child may be returned to, and
26 safely maintained in, the home, placed for adoption, legal
27 guardianship, in another planned permanent living arrangement,
28 or, for an Indian child, in consultation with the child's tribe, placed
29 for tribal customary adoption.

30 (9) Whether the child has any siblings under the court's
31 jurisdiction, and, if any siblings exist, all of the following:

32 (A) The nature of the relationship between the child and his or
33 her siblings.

34 (B) The appropriateness of developing or maintaining the sibling
35 relationships pursuant to Section 16002.

36 (C) If the siblings are not placed together in the same home,
37 why the siblings are not placed together and what efforts are being
38 made to place the siblings together, or why those efforts are not
39 appropriate.

1 (D) If the siblings are not placed together, the frequency and
2 nature of the visits between siblings.

3 (E) The impact of the sibling relationships on the child's
4 placement and planning for legal permanence.

5 The factors the court may consider as indicators of the nature of
6 the child's sibling relationships include, but are not limited to,
7 whether the siblings were raised together in the same home,
8 whether the siblings have shared significant common experiences
9 or have existing close and strong bonds, whether either sibling
10 expresses a desire to visit or live with his or her sibling, as
11 applicable, and whether ongoing contact is in the child's best
12 emotional interests.

13 (10) For a child who is 16 years of age or older, and, effective
14 January 1, 2012, for a nonminor dependent, the services needed
15 to assist the child or nonminor dependent to make the transition
16 from foster care to independent living.

17 The reviewing body shall determine whether or not reasonable
18 efforts to make and finalize a permanent placement for the child
19 have been made.

20 Each licensed foster family agency shall submit reports for each
21 child in its care, custody, and control to the court concerning the
22 continuing appropriateness and extent of compliance with the
23 child's permanent plan, the extent of compliance with the case
24 plan, and the type and adequacy of services provided to the child.

25 (f) Unless their parental rights have been permanently
26 terminated, the parent or parents of the child are entitled to receive
27 notice of, and participate in, those hearings. It shall be presumed
28 that continued care is in the best interests of the child, unless the
29 parent or parents prove, by a preponderance of the evidence, that
30 further efforts at reunification are the best alternative for the child.
31 In those cases, the court may order that further reunification
32 services to return the child to a safe home environment be provided
33 to the parent or parents up to a period of six months, and family
34 maintenance services, as needed for an additional six months in
35 order to return the child to a safe home environment. On and after
36 January 1, 2012, this subdivision shall not apply to the parents of
37 a nonminor dependent.

38 (g) At the review conducted by the court and held at least every
39 six months, regarding a child for whom the court has ordered
40 parental rights terminated and who has been ordered placed for

1 adoption, or, for an Indian child for whom parental rights are not
2 being terminated and a tribal customary adoption is being
3 considered, the county welfare department shall prepare and present
4 to the court a report describing the following:

5 (1) The child's present placement.

6 (2) The child's current physical, mental, emotional, and
7 educational status.

8 (3) If the child has not been placed with a prospective adoptive
9 parent or guardian, identification of individuals, other than the
10 child's siblings, who are important to the child and actions
11 necessary to maintain the child's relationship with those
12 individuals, provided that those relationships are in the best interest
13 of the child. The agency shall ask every child who is 10 years of
14 age or older to identify any individuals who are important to him
15 or her, consistent with the child's best interest, and may ask any
16 child who is younger than 10 years of age to provide that
17 information as appropriate. The agency shall make efforts to
18 identify other individuals who are important to the child.

19 (4) Whether the child has been placed with a prospective
20 adoptive parent or parents.

21 (5) Whether an adoptive placement agreement has been signed
22 and filed.

23 (6) If the child has not been placed with a prospective adoptive
24 parent or parents, the efforts made to identify an appropriate
25 prospective adoptive parent or legal guardian, including, but not
26 limited to, child-specific recruitment efforts and listing on an
27 adoption exchange.

28 (7) Whether the final adoption order should include provisions
29 for postadoptive sibling contact pursuant to Section 366.29.

30 (8) The progress of the search for an adoptive placement if one
31 has not been identified.

32 (9) Any impediments to the adoption or the adoptive placement.

33 (10) The anticipated date by which the child will be adopted or
34 placed in an adoptive home.

35 (11) The anticipated date by which an adoptive placement
36 agreement will be signed.

37 (12) Recommendations for court orders that will assist in the
38 placement of the child for adoption or in the finalization of the
39 adoption.

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 The court shall make appropriate orders to protect the stability
5 of the child and to facilitate and expedite the permanent placement
6 and adoption of the child.

7 (h) At the review held pursuant to subdivision (d) for a child in
8 long-term foster care, the court shall consider all permanency
9 planning options for the child including whether the child should
10 be returned to the home of the parent, placed for adoption, or, for
11 an Indian child, in consultation with the child's tribe, placed for
12 tribal customary adoption, or appointed a legal guardian, or, if
13 compelling reasons exist for finding that none of the foregoing
14 options are in the best interest of the child, whether the child should
15 be placed in another planned permanent living arrangement. The
16 court shall order that a hearing be held pursuant to Section 366.26,
17 unless it determines by clear and convincing evidence that there
18 is a compelling reason for determining that a hearing held pursuant
19 to Section 366.26 is not in the best interest of the child because
20 the child is being returned to the home of the parent, the child is
21 not a proper subject for adoption, or no one is willing to accept
22 legal guardianship. If the county adoption agency, or the
23 department when it is acting as an adoption agency, has determined
24 it is unlikely that the child will be adopted or one of the conditions
25 described in paragraph (1) of subdivision (c) of Section 366.26
26 applies, that fact shall constitute a compelling reason for purposes
27 of this subdivision. Only upon that determination may the court
28 order that the child remain in long-term foster care, without holding
29 a hearing pursuant to Section 366.26. On and after January 1, 2012,
30 the nonminor dependent's legal status as an adult is in and of itself
31 a compelling reason not to hold a hearing pursuant to Section
32 366.26.

33 (i) If, as authorized by subdivision (h), the court orders a hearing
34 pursuant to Section 366.26, the court shall direct the agency
35 supervising the child and the county adoption agency, or the State
36 Department of Social Services when it is acting as an adoption
37 agency, to prepare an assessment as provided for in subdivision
38 (i) of Section 366.21 or subdivision (b) of Section 366.22. A
39 hearing held pursuant to Section 366.26 shall be held no later than
40 120 days from the date of the 12-month review at which it is

ordered, and at that hearing the court shall determine whether adoption, tribal customary adoption, legal guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. At the request of the nonminor dependent who has an established relationship with an adult determined to be the nonminor dependent's permanent connection, the court may order adoption of the nonminor dependent pursuant to subdivision (f) of Section 366.31.

(j) The implementation and operation of the amendments to subdivision (e) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(k) The reviews conducted pursuant to subdivision (a) or (d) may be conducted earlier than every six months if the court determines that an earlier review is in the best interests of the child or as court rules prescribe.

~~SECTION 1. Section 391 of the Welfare and Institutions Code is amended to read:~~

~~391. (a) The dependency court shall not terminate jurisdiction over a nonminor unless a hearing is conducted pursuant to this section.~~

~~(b) At a hearing for a nonminor at which the court is considering termination of the jurisdiction of the juvenile court, the county welfare department shall do all of the following:~~

~~(1) Ensure that the dependent nonminor is present in court, unless the nonminor does not wish to appear in court, and elects a telephonic appearance, or document reasonable efforts made by the county welfare department to locate the nonminor when the nonminor is not available.~~

~~(2) Submit a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction, which includes a recommended transitional independent living case plan for the nonminor when the report describes continuing dependency jurisdiction as being in the nonminor's best interest.~~

1 ~~(3) If the county welfare department recommends termination~~
2 ~~of the court's dependency jurisdiction, submit documentation of~~
3 ~~the reasonable efforts made by the department to provide the~~
4 ~~nonminor with the assistance needed to meet or maintain eligibility~~
5 ~~as a nonminor dependent, as defined in paragraphs (1) to (5),~~
6 ~~inclusive, of subdivision (b) of Section 11403.~~

7 ~~(4) If the nonminor has indicated that he or she does not want~~
8 ~~dependency jurisdiction to continue, the report shall address the~~
9 ~~manner in which the nonminor was advised of his or her options,~~
10 ~~including the benefits of remaining in foster care, and of his or her~~
11 ~~right to reenter foster care and to file a petition pursuant to~~
12 ~~subdivision (e) of Section 388 to resume dependency jurisdiction~~
13 ~~prior to attaining 21 years of age.~~

14 ~~(e) (1) The court shall continue dependency jurisdiction over~~
15 ~~a nonminor who meets the definition of a nonminor dependent as~~
16 ~~described in subdivision (v) of Section 11400 unless the court finds~~
17 ~~either of the following:~~

18 ~~(A) That the nonminor does not wish to remain subject to~~
19 ~~dependency jurisdiction.~~

20 ~~(B) That the nonminor is not participating in a reasonable and~~
21 ~~appropriate transitional independent living case plan.~~

22 ~~(2) In making the findings pursuant to paragraph (1), the court~~
23 ~~shall also find that the nonminor has been informed of his or her~~
24 ~~options, including the benefits of remaining in foster care and the~~
25 ~~right to reenter foster care by filing a petition pursuant to~~
26 ~~subdivision (e) of Section 388 to resume dependency jurisdiction~~
27 ~~and by completing a voluntary reentry agreement pursuant to~~
28 ~~subdivision (z) of Section 11400, and has had an opportunity to~~
29 ~~confer with his or her counsel if counsel has been appointed~~
30 ~~pursuant to Section 317.~~

31 ~~(d) (1) The court may terminate its jurisdiction over a nonminor~~
32 ~~if the court finds after reasonable and documented efforts the~~
33 ~~nonminor cannot be located.~~

34 ~~(2) When terminating dependency jurisdiction the court shall~~
35 ~~maintain general jurisdiction over the nonminor to allow for the~~
36 ~~filing of a petition to resume dependency jurisdiction under~~
37 ~~subdivision (e) of Section 388 until the nonminor attains 21 years~~
38 ~~of age, although no review proceedings shall be required. A~~
39 ~~nonminor may petition the court pursuant to subdivision (e) of~~

1 Section 388 to resume dependency jurisdiction at any time before
2 attaining 21 years of age.

3 (e) ~~The court shall not terminate dependency jurisdiction over~~
4 ~~a nonminor who has attained 18 years of age until a hearing is~~
5 ~~conducted pursuant to this section and the department has~~
6 ~~submitted a report verifying that the following information,~~
7 ~~documents, and services have been provided to the nonminor, or~~
8 ~~in the case of a nonminor who, after reasonable efforts by the~~
9 ~~county welfare department, cannot be located, verifying the efforts~~
10 ~~made to make the following available to the nonminor:~~

11 (1) ~~Written information concerning the nonminor's case,~~
12 ~~including any known information regarding the nonminor's Indian~~
13 ~~heritage or tribal connections, if applicable, his or her family~~
14 ~~history and placement history, any photographs of the nonminor~~
15 ~~or his or her family in the possession of the county welfare~~
16 ~~department, other than forensic photographs, the whereabouts of~~
17 ~~any siblings under the jurisdiction of the juvenile court, unless the~~
18 ~~court determines that sibling contact would jeopardize the safety~~
19 ~~or welfare of the sibling, directions on how to access the documents~~
20 ~~the nonminor is entitled to inspect under Section 827, and the date~~
21 ~~on which the jurisdiction of the juvenile court would be terminated.~~

22 (2) ~~The following documents:~~

23 (A) ~~Social security card.~~

24 (B) ~~Certified copy of his or her birth certificate.~~

25 (C) ~~Health and education summary, as described in subdivision~~
26 ~~(a) of Section 16010.~~

27 (D) ~~Driver's license, as described in Section 12500 of the~~
28 ~~Vehicle Code, or identification card, as described in Section 13000~~
29 ~~of the Vehicle Code.~~

30 (E) ~~A letter prepared by the county welfare department that~~
31 ~~includes the following information:~~

32 (i) ~~The nonminor's name and date of birth.~~

33 (ii) ~~The dates during which the nonminor was within the~~
34 ~~jurisdiction of the juvenile court.~~

35 (iii) ~~A statement that the nonminor was a foster youth in~~
36 ~~compliance with state and federal financial aid documentation~~
37 ~~requirements.~~

38 (F) ~~If applicable, the death certificate of the parent or parents.~~

39 (G) ~~If applicable, proof of the nonminor's citizenship or legal~~
40 ~~residence.~~

1 ~~(H) An advance health care directive form.~~

2 ~~(I) The Judicial Council form that the nonminor would use to~~
3 ~~file a petition pursuant to subdivision (e) of Section 388 to resume~~
4 ~~dependency jurisdiction.~~

5 ~~(J) The written 90-day transition plan prepared pursuant to~~
6 ~~Section 16501.1.~~

7 ~~(3) Assistance in completing an application for Medi-Cal or~~
8 ~~assistance in obtaining other health insurance.~~

9 ~~(4) Referrals to transitional housing, if available, or assistance~~
10 ~~in securing other housing.~~

11 ~~(5) Assistance in obtaining employment or other financial~~
12 ~~support.~~

13 ~~(6) Assistance in applying for admission to college or to a~~
14 ~~vocational training program or other educational institution and~~
15 ~~in obtaining financial aid, where appropriate.~~

16 ~~(7) Assistance in maintaining relationships with individuals~~
17 ~~who are important to a nonminor who has been in out-of-home~~
18 ~~placement for six months or longer from the date the nonminor~~
19 ~~entered foster care, based on the nonminor's best interests.~~

20 ~~(8) For nonminors between 18 and 21 years of age, assistance~~
21 ~~in accessing the Independent Living Aftercare Program in the~~
22 ~~nonminor's county of residence, and, upon the nonminor's request,~~
23 ~~assistance in completing a voluntary reentry agreement for care~~
24 ~~and placement pursuant to subdivision (z) of Section 11400 and~~
25 ~~in filing a petition pursuant to subdivision (e) of Section 388 to~~
26 ~~resume dependency jurisdiction.~~

27 ~~(9) Written information notifying the child that current or former~~
28 ~~dependent children who are or have been in foster care are granted~~
29 ~~a preference for student assistant or internship positions with state~~
30 ~~agencies pursuant to Section 18220 of the Government Code. The~~
31 ~~preference shall be granted to applicants up to 26 years of age.~~

32 ~~(f) At the hearing closest to and before a dependent minor's~~
33 ~~18th birthday and every review hearing thereafter for nonminors,~~
34 ~~the department shall submit a report describing efforts toward~~
35 ~~completing the items described in paragraph (2) of subdivision~~
36 ~~(e).~~

37 ~~(g) The Judicial Council shall develop and implement standards,~~
38 ~~and develop and adopt appropriate forms necessary to implement~~
39 ~~this provision.~~

O